

INDIGO ENVIRONMENTAL HOLDINGS LIMITED (and subsidiary companies) STANDARD TERMS AND CONDITIONS OF SALE (1st Jan 2021 until further notice)

ALL ORDERS ARE ACCEPTED STRICTLY SUBJECT TO OUR STANDARD TERMS AND CONDITIONS OF SALE, A COPY OF WHICH IS REPRODUCED BELOW

1. Definitions

- (a) "Buyer" as used herein means the person/s or firm who purchase the product from the Seller under the Agreement;
- (b) "Seller" as used herein means Indigo Environmental Group Limited
- (c) "Agreement" means an agreement between the Seller and the Buyer for the sale by the Seller to the Buyer of the recycle products/waste of any description which shall, for the avoidance of any doubt, incorporate these terms and conditions (without exception);
- (d) The word "product" used herein shall mean a product or products or any mixture or combination agreed in the Agreement, to be supplied to the Buyer, and shall include any containers in which the same are supplied, unless otherwise agreed;
- (e) "Business Day/s" is understood to be from 9.00 am to 5.00 pm inclusive on the days of the week from Monday to Friday inclusive, unless declared a public holiday by the United Kingdom government;
- (f) "Force Majeure Event" as used herein has the meaning set out in clause 10; and
- (g) All times referred to herein are to London, England time.

2. Basis of Agreement

These terms and conditions of sale apply to the Agreement to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

An order from the Buyer constitutes an offer by the Buyer to purchase the product in accordance with these terms and conditions of sale.

An order made by a Buyer is only deemed to be accepted when the Seller issues a written acceptance of this order, at which point the Agreement shall come into existence.

The Agreement constitutes the entire agreement between the parties. The Buyer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Seller which is not set out in the Agreement.

(e) Any samples, drawings, descriptive matter, or advertising produced by the Seller are produced for the sole purpose of giving an approximate idea of the product. They shall not form part of the Agreement or have any contractual force.

(f) A quotation for product given by the Seller shall not constitute an offer. A quotation shall only be valid for a period of 20 Business Days from its date of issue.

3. Price and Price Variation

(a) The price of the product shall be the price set out in the Agreement, or, if no price is quoted, the price set out in the Seller's published price list in force as at the date of delivery. The Seller may, by giving notice to the Buyer at any time up to 3 Business Days before delivery, increase the price of the product to reflect any increase in the cost of the product that is due to (i) any factor beyond the Seller's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs), (ii) any request by the Buyer to change the delivery date(s), quantities or types of products ordered, or the specification in the Agreement or (iii) any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate or accurate information or instructions.

(b) If the Buyer considers such variations unreasonable, it may, by notice in writing to the Seller (served upon the Seller within one Business Day of service upon the Buyer of the Seller's notice), cancel the Agreement. In such circumstances, neither party shall be under further liability to the other under the Agreement, other than any liability accrued at the date of service by the Buyer of such notice on the Seller.

4. Delivery

The delivery dates given in the Agreement are given in good faith, but are estimates only and time of delivery is not of the essence. No liability whatsoever can be accepted by the Seller for delays in delivery howsoever caused, and the Buyer shall not be entitled to refuse to accept the product by reason of any delay in delivery, unless specifically agreed with the Seller.

(b) Unless otherwise agreed in the Agreement, the Buyer shall collect the product from the Seller's premises and such location shall be advised by the Seller prior to delivery ("Delivery Location"). The Buyer shall ensure that the product is collected from the Delivery Location within 3 Business Days of the Seller notifying the Buyer that the product is ready for collection.

(c) If the Buyer fails to take delivery of the product within 3 Business Days of the Seller notifying the Buyer that the product is ready for collection, then, except where such failure or delay is caused by a Force Majeure Event or the Seller's failure to comply with its obligations under the Agreement (i) delivery of the product shall be deemed to have been completed at 9.00 am on the second Business Day after the Business Day on which the Seller

notified the Buyer that the product was ready and (ii) the Seller shall store the product until delivery takes place, and charge the Buyer for all related costs and expenses (including insurance).

(d) If 2 Business Days after the Business Day on which the Seller notified the Buyer that the product was ready for collection the Buyer has not collected the product from the Delivery Location, the Seller may resell or otherwise dispose of part or all of the product and, after deducting reasonable storage and selling costs and expenses, account to the Buyer for any excess over the price of the product or charge the Buyer for any shortfall below the price of the product.

(e) The Seller shall ensure that each delivery of the product is accompanied by a delivery note and if the Seller requires the Buyer to return any packaging materials to the Seller, that fact has been made known to the Buyer. The Buyer shall make any such packaging materials available for collection at such times as the Seller shall reasonably request. Returns of packaging materials shall be at the Buyer's expense in accordance with clause 11.

(f) The Seller reserves the right to deliver the product by instalments, which may, at the sole discretion of the Seller, be invoiced for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

(g) If the Seller fails to deliver the product, its liability shall be limited to the costs and expenses incurred by the Buyer in obtaining replacement goods of a similar description and quality in the cheapest market available, less the price of the product. The Seller shall have no liability for any failure to deliver the product to the extent that such failure is caused by a Force Majeure Event or the Buyer's failure to provide the Seller with adequate delivery instructions or any other instructions that are relevant to the supply of the product.

(h) The Seller will not be responsible for any duties associated with receipt of tied oils.

5. Passing of Title and Risk

(a) Title in the product shall pass on payment being received by the Seller in full in cash or cleared funds into its bank account, for the whole of any delivery.

(b) Risk in the product passes to the Buyer on delivery (as set out in clause 4 above).

(c) Until title to the product has passed to the Buyer, the Buyer shall:

hold the product on a fiduciary basis as the Seller's bailee;

store the product separately from all other goods or products held by the Buyer so that they remain readily identifiable as the Seller's property;

not remove, deface or obscure any identifying mark or packaging on or relating to the product;

maintain the product in satisfactory condition and keep it insured against all risks for its full price from the date of delivery;

notify the Seller immediately if it becomes subject to any of the events listed in clause 9(a)(iii); and

give the Seller such information relating to the product as the Seller may require from time to time,

(d) Subject to clause 5(c) the Buyer may resell or use the product in the ordinary course of its business (but not otherwise) before the Seller receives payment for the product. However, if the Buyer resells the product before that time it does so as principal and not as the Seller's agent and title to the product shall pass from the Seller to the Buyer immediately before the time at which resale by the Buyer occurs.

(e) If, before title to the product passes to the Buyer, the Buyer becomes subject to any of the events listed in clause 9(a)(iii), or the Seller reasonably believes that any such event is about to happen and notifies the Buyer accordingly, then, provided that the product has not been resold, or irrevocably incorporated into any other goods or product/s (as the case may be), and without limiting any other right or remedy the Seller may have, the Buyer's right to resell the product or use it in the ordinary course of its business shall cease immediately and the Seller may at any time require the Buyer to deliver up the product and, if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the product is stored in order to recover the product.

6. Terms of Payment

(a) Unless otherwise agreed in writing by the Seller, payment shall be due 30 calendar days from the date of invoice. Time of payment is of the essence.

(b) Notwithstanding clause 6(a), the Seller may, at any time, require the Buyer to make payment in advance of delivery, or to advance adequate security for the payment of all amounts due or becoming due.

(c) Without prejudice to the right of the Seller to payment in accordance with the terms of payment specified in clause 6(a) the Seller shall, at its sole discretion, have the right to charge interest at the rate of 2% per month or part of a month above the base lending rate from time to time of Lloyds Banking Group on any amount more than 20 calendar days overdue. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Buyer shall pay the interest, together with the overdue amount.

(d) The Buyer shall pay all amounts due under the Agreement in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.

7. Seller's Warranty

(a) The Seller warrants that the product delivered to the Buyer will comply with the specification or description given in the Agreement. In the absence of such specification or description, the product shall be of normal industrial quality.

(b) Save as provided in this clause (and to the fullest extent permitted by law), no representation, warranty, condition or term, express or implied, statutory or otherwise as to the quality of the product, its fitness for any purpose or compliance with any sample or description or in any other respect shall apply to the Agreement or to any delivery made thereunder.

8. Limitation of Liability – the Buyer’s attention is drawn in particular to the provision of this clause

Nothing in these terms and conditions shall limit or exclude the Seller’s liability for:

death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
fraud or fraudulent misrepresentation;
breach of the terms implied by section 12 of the Sale of Goods Act 1979;
defective products under the Consumer Protection Act 1987; or
any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.

(b) Subject to clause 8(a), the Seller shall, under no circumstances whatsoever, be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Agreement.

(c) The Seller’s total liability to the Buyer in respect of all other losses arising under or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price paid by the Buyer for the product, unless the Seller replaces any defective product with product conforming in all respects with the Agreement, in which event the Seller shall be under no further liability to the Buyer.

(d) The Seller shall not be responsible for any injury loss or damage, howsoever caused, arising directly or indirectly from the storage, application, or use of the product. Any representation, advice or recommendation given by the Seller, its servants or agents as to the mode of storing, applying or using the product is given without liability on the part of the Seller its servants or agents.

(e) No representation, warranty or indemnity is implied that the product does not infringe any patents, trade marks, registered designs or other industrial property rights belonging to third parties.

9. Termination of the Agreement

(a) If at any time during the term of the Agreement:

(i) any sum of money due thereunder from the Buyer to the Seller shall have been due and unpaid for 20 calendar days;

(ii) the Buyer shall be in breach of any other terms thereof or of these terms and conditions (and if capable of remedy such breach has not been remedied to the satisfaction of the Seller); or

(iii) the Buyer is unable to meet its obligations as they fall due, or is insolvent or (being an individual) shall have committed any act of bankruptcy or (being a company) shall enter into liquidation (other than a voluntary liquidation for the purpose of reconstruction or amalgamation in terms previously approved in writing by the Seller) or shall have had a receiver appointed or execution levied over any of its assets,

the Seller may, without prejudice to any other right or remedy that it may have:

(i) repossess the product; and/or

(ii) terminate the Agreement forthwith; and/or

(iii) suspend any further deliveries due under the Agreement.

(b) Should the Seller suspend deliveries, it may, at any subsequent time, terminate the Agreement forthwith. Should the Seller waive or delay its right to suspend deliveries, it shall not be stopped from suspending later deliveries or from terminating the Agreement forthwith. No Agreement may be cancelled or suspended by the Buyer without the Seller’s written consent. Any consent so given shall be given only on the express condition that the Seller be compensated against any losses incurred wholly or in part by that cancellation or suspension.

(c) On termination of the Agreement for any reason, the Buyer shall immediately pay to the Seller all of the Seller’s outstanding unpaid invoices and interest.

(d) Termination of the Agreement, however arising, shall not affect any of the parties’ rights, remedies, obligations and liabilities that have accrued as at termination.

10. Force Majeure

(a) The Seller shall, under no circumstances, be liable for any failure or delay in performing its obligations under the Agreement to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond the Seller’s reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including (but not limited to) strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party’s), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

(b) In the event inability to deliver or delay in delivery by reason of any of the above mentioned causes, the Seller may suspend delivery, and at its option the Seller may (whether or not it has already suspended deliveries) by notice in writing to the Buyer cancel the Agreement in whole or as to any unfulfilled part.

11. Packaging and Marking

(a) While it is intended that the packages shall bear a description of the product contained therein, the Buyer must ensure at the time of delivery that the packages are so marked. Unless otherwise agreed in writing with the Seller, all packages and other containers are non-returnable. Packages and containers specified as returnable remain the property of the Seller, and shall not be used for any other purpose than storage of the product supplied. Any such returnable packages and other containers must be returned to the Seller in good condition, as soon as possible, with carriage paid to an address indicated by the Seller.

(b) While the Seller will use its reasonable endeavours to comply with any instructions the Buyer may give as to the markings to be placed on the packages, the Seller accepts no responsibility for any failure to comply with such instructions, and the Buyer shall indemnify the Seller against all the consequences to the Seller of complying with the Buyer's instructions in respect of so packaging and marking the product.

12. Buyer's Obligations

(a) In every case it shall be the responsibility of the Buyer to ensure that in the case of delivery from a tanker or installation (i) the storage tank or other receptacles into which delivery is to be made shall be suitable and of sufficient capacity for the delivery and (ii) they do not already contain any other specification to that tendered by the Seller. The Buyer shall hold the Seller indemnified against the consequences of any failure on the part of the Buyer to comply with (i) and (ii) above.

(b) It is a condition precedent to liability on any claim relating to the specifications or quality of the product that such claim is made in writing to the Seller's head office within 14 calendar days of the date of arrival of the product at premises owned, occupied or used by the Buyer or to which the Buyer has access.

(c) If it is alleged that the product is delivered in a damaged state, or in the event of loss, shortage, non-delivery, or delay, the Buyer is required to notify the Seller's head office and the Buyer's carriers (if any) in writing within 14 calendar days of the date of arrival of the product at premises owned, occupied or used by the Buyer or to which the Buyer has access, giving full details of the alleged damage, loss, shortage, non-delivery, or delay. Such notification is required to protect the Seller against third parties, and this condition does not confer any additional rights on the Buyer.

(d) If the Buyer shall fail to give such notice as is required in clauses 12(c) and 12(d), then the product shall be deemed in all respects to be in accordance with the Agreement, and the Buyer shall be deemed to have accepted the product.

(e) Subject to clause 5(d) the product in respect of which the Buyer makes any claim shall be preserved intact as delivered. The Seller and/or its agents shall have the right to attend the Buyer's premises to investigate any complaint.

(f) If the Buyer gives notice in writing to the Seller of an issue with the delivery, specification, quantity or quality of the product in line with those set out at clauses 12(c) and 12(d), the Seller shall, at its option (and only if it considers such action to be appropriate and justified), replace the product, provide a credit note for the price of the product in full (subject to clause 12(g) below), or take any such action deemed necessary by the Seller to resolve the situation with the Buyer, with both parties acting reasonably and in good faith at all times.

(g) In respect of a claim made by the Buyer for a shortage of product upon delivery, credit notes will only be raised by the Seller in the event that the weight discrepancy of such shortage is greater than 50 kilograms.

(h) Any failure by the Buyer to comply with this clause 12 shall preclude the Buyer from making any claim against the Seller in respect of any defect in the product, and from refusing to accept the product.

13. Seller's Marks

The Buyer shall not, in selling its products, or in promoting the sale thereof, make any reference to the Seller, or to any of the Seller's trademarks or brand names without the Seller's written consent.

14. Assignment

The Seller may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Agreement, but the Agreement shall not be assigned or transferred by the Buyer (directly or indirectly) except with the prior written consent of the Seller.

15. Notices

Any notice or other communication given to a party under or in connection with the Agreement shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next Business Day delivery service, or by commercial courier or fax or e-mail.

A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 15(a); if sent by pre-paid first class post or other next Business Day service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission or sending (as the case may be).

The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

16. Severance

(a) If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Agreement.

If any provision or part-provision of the Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

17. Waiver

A waiver of any right or remedy under the Agreement or law of the Seller is only effective if given in writing by the Seller, and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by the Seller to exercise any right or remedy provided under the Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

18. Third Party Rights

A person or firm who is not a party to the Agreement shall not have any rights to enforce its terms.

19. Arbitration

Any dispute arising out of or in connection with the Agreement is to be settled by arbitration in London, England, by two Arbitrators accustomed to the trade (one to be named by each party) and an umpire to be chosen by the Arbitrators in accordance with the Arbitration Act 1996, or any statutory modifications or re-enactment thereof for the time being in force and in accordance with the Laws of England and Wales.

20. Health and Safety

All goods are sold on the basis that the Buyer will take notice of the care and handling recommendations as supplied by the Seller or manufacturer of the product, or, failing such recommendations being given, follow the highest standards of care adopted by the industry in respect of the product. If the Buyer is not already in possession of literature or information in connection with the safe use of the product at work, then contact should be made with the Seller to request such information.

21. Variation

Except as set out in these terms and conditions, no variation of the Agreement, including the introduction of any additional terms and conditions shall be effective unless it is in writing and signed by an authorised signatory of the Seller.

22. Governing Law

The Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

23. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).